

ARTICLE 6. WITNESSES

Rule 601. Competency to Testify in General.

Every person is competent to be a witness unless these rules or an applicable statute provides otherwise.

Comment to 2012 Amendment

The language of Rule 601 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Cases

601.010 Every person is competent to be a witness except as provided by statute or by the rules.

State v. Cruz, 218 Ariz. 149, 181 P.3d 196, ¶¶ 104–106 (2008) (state called witness who was visibly intoxicated; court noted that court will presume witness is competent and that witness is not rendered incompetent merely because witness was under influence of drugs at time of testimony).

601.050 The determination whether to require a witness to undergo a mental or physical examination is within the sound discretion of the trial court.

State v. Moore, 222 Ariz. 1, 213 P.3d 150, ¶¶ 45–48 (2009) (because witness was talking rapidly and got “off track” during questioning, defendant asked trial court to order witness to undergo drug test; court noted that video recording of witness’s testimony showed she was coherent and responded appropriately to questioning, even though she had tendency to ramble and interrupt counsel, thus trial court did not abuse discretion in finding witness competent to testify and in not ordering drug test).

601.060 A witness having undergone hypnosis may testify only about matters that the witness recalled and related before hypnosis, and the party offering this testimony must show that proper forensic hypnosis guidelines were followed.

State v. Harrod, 200 Ariz. 309, 26 P.3d 492, ¶¶ 20–21 (2001) (because trial court found witness had not been successfully hypnotized, trial court properly allowed witness to testify).

601.065 In determining whether a witness has undergone hypnosis, the trial court must make that determination by a preponderance of the evidence.

State v. Harrod, 200 Ariz. 309, 26 P.3d 492, ¶¶ 22–26 (2001) (trial court found by preponderance of evidence that witness had not been successfully hypnotized, but stated that, if standard were clear and convincing evidence, it would not have so found).

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